IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6875 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE CO-OPERATIVE MARKETING FEDERATION LTD

Versus

COLLECTOR

Appearance:

MS AVANI S MEHTA for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 07/04/2000

ORAL JUDGEMENT

Mrs. A.S. Mehta, learned counsel appearing for the petitioner and learned AGP Ms. B.R Gajjar for respondents.

The petitioner has applied for allotment of karaba land adjacent to Plot No. 1318 and 1320 abutting the National Highway in Unja area. Application of the petitioner was initially rejected by the Colector by order dated 31-3-1987. Against the order of the Collector, petitioner moved the State Government for allotment of the land. State Government also by order dated 24-9-1987 rejected the prayer of the petitioner, on the ground that, the karaba land as prayed by the petitioner may be required for widening the national highway. It is submitted by learned counsel for the petitioner that, petitioner is carrying manufacturing process unit in the adjacent area of the karaba land and if this land is allotted to them, then, they get a compact land. It is further submitted by learned counsel that, if this karaba land is not allotted to the petitioner, then, some unauthorised occupants may occupy the land and that may create problems to petitioner's manufacturing unit. It is also submitted by learned counsel that, at present the land in question is in possession of the petitioner and unless they get a legal right by way of allotment, they apprehends that, they may be ousted .

Learned AGP submitted that, the karaba land adjacent to the manufacturing unit of the petitioner will be needed by the State Government. It appears that the petitioner is carrying on their manufacturing process in the adjacent area of this karaba land and this karaba land is also in their possession. Petitioner really wants this land for parking purpose. It appears that the Collector and the State Government have refused the petitioner to allot the karaba land on the ground that the land may be required for widening the road. I do not find any illegality in the order of the Collector or the State Government because if the land is really required for widening National Highway then such land should not be allotted to any private individual. However, a statement has been made by learned counsel for the petitioner that, if the land is immediately not required by the State Government for widening road, the petitioner may be permitted to use the land as parking area. Having regard to the fact that this land is in occupation of the petitioner and they want to utilise the land by making it a parking area for their unit, I am of the view that the Government may consider temporarily for allotting the said land to the petitioner for utilising the karaba land as parking area, where they cannot be allowed to raise any construction and as & when the land is required by the State Government for widening National Highway they

may resume the land from the petitioner. If the petitioner applies for the karaba land, State Government may consider to allot the land as per the observations made above. Accordingly the petitioner may apply afresh to the State Government to review their earlier decision and for allotment of the karaba land for the purpose of using the same for parking of vehicles. Petitioner may file the application to the State Government within a period of one month from today. State Government is directed to consider the application of the petitioner for allotment of the

the same for parking place of the petitioner unit, with a further condition that, if the land is required by the State Government for widening National Highway then they will be at liberty to resume the same from the petitioner. The Government is directed to consider application of the petitioner within fourty five days (45 days) from the date of receipt of the application of the petitioner.

With the aforesaid observations and directions, this writ petition is disposed of. Interim relief granted earlier shall continue till the decision is taken by the Government. Rule discharged. No order as to costs.

Dt: 7-4-2000 (P.K. Sarkar, J)

/vgn.